CRP 273/2006
BEFORE
8.9.2006
BEFORE
THE HON'BLE MR JUSTICE HN SHARMA

Heard Mr SS Sarma, learned senior counsel for the petitioner.

By filing this revision petition under Article 227 of the Constitution of India, the petitioner has challenged the order dated 26.6.2006 passed by the learned Civil Judge (Sr Division), Bongaigaon, in MS No 22/99. The aforesaid MS No 22/99 was initially filed against the defendant petitioner No 1 , the present petitioner and its officials. Thereafter by way of amendment, the name of the defendant Nos 5 to 7 have been impleaded as co-defendants.

The present petitioner by filing an application in the said suit captioned as \an application under Order 1, Rule 10 read with Order 7, Rule 5, CPC and Order 7, Rule 11 and section 151, CPC\ prayed for dismissal of the suit and to pass necessary order on the ground that the newly impleaded defendant Nos 5,6, and 7 has not been incorporated in the body of the plaint to which and objection was also filed by the plaintiff. The aforesaid defendant Nos 5, 6 and 7 were impleaded later on. From the impugned order it is clear and transparent that the newly impleaded defendant Nos 5, 6 and 7 appeared in the suit and filed their written statements wherein they have stated that that during the period of operation of the mill the defendant No 1 entered into contract with different dealers, contractors, suppliers, etc of its own for its business deals with them for operation and management of the mill, and they were no way connected with such business deal with the defendant No 1. The learned trial Court also observed that the plaintiff in their written objection that there is no cause of action for the suit against the impleaded defendants and the plaintiff seeks no relief against these said newly impleaded defendants. The defendant No 1 having failed to satisfy the outstanding dues, the plaintiff filed the suit for realization of the said amount. The learned trial Court further held that the impleadment of the defendant Nos 5, 6 and 7 in the cause title of the plaint and in the written statements filed by the newly impleaded defendants are sufficient to decide the dispute and their presence is not required for effective adjudication of the dispute in question. Accordingly, on such consideration, the learned trial Court rejected the application of the defendant No 1 / petitioner.

The petitioner is a co-defendant in the suit and is contesting of the suit on merit. The allegations made against the plaintiff by the petitioner / defendant No 1 do not disclose that any right of the present petitioner has been adversely or otherwise affected by the alleged inaction of the plaintiff. The defendant / petitioner is to stand on is own legs regarding liabilities alleged against it in the suit. The learned trial Court passed the impugned order upon proper and effective consideration of the issue raised before him, I do not find any jurisdictional error to exercise extraordinary superintending jurisdiction of this Court under Article 227 of the Constitution to interfere with the impugned order and hence, this revision petition is dismissed being devoid of merit. However, it is observed that since the suit is of the year 1999, the learned trial Court shall decided the suit as expeditiously as possible.

JUDGE

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